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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

GABRIEL MARTINEZ,

Defendant and Appellant.

B215049

(Los Angeles County
Super. Ct. No. NA078873)

ORDER MODIFYING OPINION
AND DENYING REHEARING
[no change in the judgment]

It is ordered that the opinion filed herein March 10, 2010, be modified as follows:

1. On page 4, in the next to last sentence of the paragraph preceding the Disposition, the words “on appeal” are to be inserted between “The record” and “does not” so that the sentence reads:

The record on appeal does not indicate that Appellant raised any claim regarding the calculation of presentence custody credits in the trial court.

2. At the end of the same sentence referenced in number 1 above, add as footnote 2 the following:

On March 2, 2010, we received a courtesy copy of a document filed in the trial court, indicating that Appellant has moved for modification of his sentencing credits; however, this issue is not before us at this time.

3. On page 4, in the last sentence of the paragraph preceding the Disposition, insert the word “this” between the words “on” and “appeal” so that the sentence reads:

Thus, any issue regarding the amendment of Penal Code section 4019 is not cognizable on this appeal.

Appellant’s petition for rehearing is denied.

MALLANO, P. J.

CHANEY, J.

JOHNSON, J.